

§ 400.12

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concurrent upon by CBP) from the outer limits of a port of entry boundary as defined in 19 CFR 101.3.

(ii) A subzone meets the following requirements relating to CBP supervision:

(A) Proper CBP oversight can be accomplished with physical and electronic means;

(B) All electronically produced records are maintained in a format compatible with the requirements of CBP for the duration of the record period; and

(C) The operator agrees to present merchandise for examination at a CBP site selected by CBP when requested, and further agrees to present all necessary documents directly to the relevant CBP oversight office.

§ 400.12 Eligible applicants.

(a) *In general.* Subject to the other provisions of this section, public or private corporations may apply for grants of authority to establish zones. The Board shall give preference to public corporations.

(b) *Public corporations and private non-profit corporations.* The eligibility of public corporations and private non-profit corporations to apply for a grant of authority shall be supported by enabling legislation of the legislature of the state in which the zone is to be located, indicating that the corporation, individually or as part of a class, is authorized to so apply. Any application must not be inconsistent with the charter or organizational papers of the applying entity.

(c) *Private for-profit corporations.* The eligibility of private for-profit corporations to apply for a grant of authority shall be supported by a special act of the state legislature naming the applicant corporation and by evidence indicating that the corporation is chartered for the purpose of establishing a zone.

(d) *Applicants for subzones (except pursuant to § 400.24(c))—(1) Eligibility.* The following entities are eligible to apply to establish a subzone:

(i) The grantee of the closest zone in the same state;

(ii) The grantee of another zone in the same state, which is a public corporation (or a non-public corporation if

no such other public corporation exists), if the Board, or the Executive Secretary, finds that such sponsorship better serves the public interest; or

(iii) A state agency specifically authorized to submit such an application by an act of the state legislature.

(2) *Notification of closest grantee.* If an application is submitted under paragraph (d)(1)(ii) or (iii) of this section, the Executive Secretary shall:

(i) Notify, in writing, the grantee specified in paragraph (d)(1)(i) of this section, which may, within 30 days, object to such sponsorship, in writing, with supporting information as to why the public interest would be better served by its acting as sponsor;

(ii) Review such objections prior to docketing the application to determine whether the proposed sponsorship is in the public interest, taking into account:

(A) The objecting zone's structure and operation;

(B) The views of state and local public agencies; and

(C) The views of the proposed subzone operator;

(iii) Notify the applicant and objecting zone in writing of the Executive Secretary's determination;

(iv) If the Executive Secretary determines that the proposed sponsorship is in the public interest, docket the application (see § 400.63 regarding appeals of decisions of the Executive Secretary).

§ 400.13 General conditions, prohibitions and restrictions applicable to authorized zones.

(a) *In general.* Grants of authority issued by the Board for the establishment of zones and any authority subsequently approved for such zones, including those already issued, are subject to the Act and this part and the following general conditions or limitations:

(1) Prior to activation of a zone, the zone grantee or operator shall obtain all necessary permits from federal, state and local authorities, and except as otherwise specified in the Act or this part, shall comply with the requirements of those authorities.

(2) A grant of authority approved under this part includes authority for the grantee to permit the erection of